

Multiple Agency Fiscal Note Summary

Bill Number: 5662 SB	Title: Cannabis employee job retention
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	111,000	0	0	54,000	0	0	54,000
Office of Administrative Hearings	0	0	22,000	0	0	22,000	0	0	22,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	133,000	0	0	76,000	0	0	76,000

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	.4	0	0	111,000	.2	0	0	54,000	.2	0	0	54,000
Office of Administrative Hearings	.0	0	0	22,000	.0	0	0	22,000	.0	0	0	22,000
Department of Revenue	.0	0	0	0	.0	0	0	0	.0	0	0	0
Liquor and Cannabis Board	.0	0	0	5,000	.0	0	0	0	.0	0	0	0
Department of Labor and Industries	3.2	0	0	1,415,000	2.1	0	0	740,000	2.1	0	0	740,000
Total \$	3.6	0	0	1,553,000	2.3	0	0	816,000	2.3	0	0	816,000

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

Prepared by: Anna Minor, OFM	Phone: (360) 790-2951	Date Published: Final 2/27/2023
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Individual State Agency Fiscal Note

Bill Number: 5662 SB	Title: Cannabis employee job retention	Agency: 100-Office of Attorney General
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Revolving Account-State 405-1	58,000	53,000	111,000	54,000	54,000
Total \$	58,000	53,000	111,000	54,000	54,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.4	0.4	0.2	0.2
Account					
Legal Services Revolving Account-State 405-1	58,000	53,000	111,000	54,000	54,000
Total \$	58,000	53,000	111,000	54,000	54,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 01/31/2023
Agency Preparation: Chad Standifer	Phone: 3605863650	Date: 02/06/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 02/06/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/06/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 1: Findings.

Section 2: Definitions provided.

Section 3: Limits coverage to employees who worked in the state for an outgoing cannabis employer for at least 30 calendar days within the last 180 days.

Section 4: Limits coverage to employers who own, control, or operate a cannabis business in the state. Employers holding a license under the social equity program are not covered until January 1, 2030.

Section 5: Requires an outgoing cannabis employer to provide a preferential hiring list to the incoming cannabis employer.

Section 6: Requires the incoming cannabis employer to maintain the preferential hiring list and hire from it for 180 calendar days by seniority. Requirements provided during a 90-day transition employment period regarding the job offers, wages and benefits, layoffs, and discharges.

Section 7: Requires the Department of Labor and Industries (L&I) to create a poster giving notice of rights for display by employers.

Section 8: Requires employers to retain certain records in compliance with the chapter.

Section 9: Prohibits employers or other person to interfere with the rights established under this section. Provides rights to person protected including filing complaints with L&I and bringing a civil action for alleged violations of this chapter. Provides a rebuttable presumption of retaliation relating to adverse actions against persons within 90 days of the person's exercise of rights protected under the section.

Section 10: Requires L&I to administer and enforce the chapter, and to adopt rules as necessary.

Section 11: Authorizes L&I to investigate violations under the chapter. Provides a three-year look-back for investigations. Requires L&I to encourage reporting of violations. Authorizes L&I to issue subpoenas, examine witnesses under oath, and take depositions. Authorizes L&I's Director to order temporary or interim relief.

Section 12: Provides that the failure of a respondent to comply with any requirement imposed under the chapter is a violation of the chapter.

Section 13: Requires L&I's director to issue findings of fact resulting from investigation, to issue a determination of compliance where no violation is found, and to issue citations identifying violations. Specifies the requirements of citations

Section 14: Provides requirements as to unpaid compensation, civil penalties, and interest accrued from unpaid compensation. Authorizes the waiver of penalties under certain conditions. Provides parameters to consider when the director is assessing damages, penalties, and fines.

Section 15: Requires unpaid compensation liability for respondents found in violation of this chapter. Authorizes liquidated damages. Provides for penalties for retaliation. Specifies civil penalty amounts based on the number of violations assessed. Provides for fines for other violations. Provides penalties for hindering the L&I Director of an administrative law judge in the performance of their duties. Provides for reasonable costs and attorneys' fees. Prohibits future bidding on state

contracts while amounts are due under a final order. Requires L&I to deposit fines and civil penalties to the supplemental pension fund established under RCW 51.44.033.

Section 16: Provides appeal rights to aggrieved parties receiving citations; requires the director to assign hearings to the Office of Administrative Hearings (OAH) with the director issue all final order subject to review under RCW 34.05 (APA).

Section 17: Allows employees to terminate L&I actions.

Section 18: Authorizes the L&I Director to require positing of respondent's failure to comply with final orders and to request that the Liquor and Cannabis Board or the Department of Revenue to deny, suspend, refused to renew or revoke any cannabis business license.

Section 19: Provides that a respondent subject to a L&I settlement agreement or final order may not sell the business without notifying L&I and notifying the successor of amounts owed.

Section 20: Authorizes civil actions.

Section 21: Makes waivers of any provisions under this chapter void and unenforceable.

Section 22: Provides that the provisions of the chapter do not supplement or limit other laws.

Section 23: Provides that the bill be known as "The Cannabis Employee Job Retention Act".

Section 24: Provides that section 1 through 23 constitute a new chapter in RCW 49.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

Cash receipts are assumed to equal the Legal Services Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agencies are the Liquor and Cannabis Board (LCB) and the Department of Labor and Industries (L&I). The Attorney General's Office (AGO) will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agencies' fiscal note. Appropriation authority is necessary in the AGO budget.

AGO AGENCY ASSUMPTIONS:

L&I will be billed for Seattle rates:

FY 2024: \$53,000 for 0.20 Assistant Attorney General FTE (AAG), and 0.10 Legal Assistant 3 FTE (LA).

FY 2025: \$53,000 for 0.20 AAG and 0.10 LA.

FY 2026: \$27,000 for 0.10 AAG, and 0.10 LA, and in each FY thereafter.

LCB will be billed for Seattle rates:

FY 2024: \$5,000 for 0.02 AAG and 0.01 LA.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Attorney General's Office (AGO) Agency Assumptions:

This bill is assumed effective 90 days after the end of the 2023 legislative session.

Location of staffing is assumed to be in a Seattle office building.

Total workload impact in this request includes standard assumption costs for goods & services, travel, and capital outlays for all FTE identified.

Agency administration support FTE are included in the tables, for every 1.0 Assistant Attorney General FTE (AAG), the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 FTE of a Management Analyst 5 (MA). The MA is used as a representative classification.

1. Assumptions for the AGO Labor and Industries Division's (LNI) Legal Services for the Department of Labor and Industries (L&I):

The AGO will bill L&I for legal services based on the enactment of this bill.

L&I assumes it will receive an additional 46 complaints as a result of this bill. Historically, 14 percent of L&I employment standards complaints result in an appealable order. 14 percent of 46 complaints will yield 6.44 anticipated orders. L&I is anticipating these orders to be companywide rather than individual, therefore there will be many workers impacted per order. This will lead to a higher appeal rate than the average 20 percent of orders appealed for individual complaints. For this reason, the anticipated appeal rate is 50 percent. 50 percent of 6.44 orders is 3.22 (rounded to 3) appeals. Companywide appeals of this complexity generally require 0.4 AAG FTE per 10 appeals, which will require 0.12 AAGs. The AAGs will also need to provide immediate complex legal advice for implementation, policy making, and rulemaking for approximately the first two years. Then in each FY thereafter will require 0.1 FTE.

LNI total FTE workload for Seattle impact:

FY 2024: \$53,000 for 0.20 AAG, and 0.10 LA.

FY 2025: \$53,000 for 0.20 AAG and 0.10 LA.

FY 2026: \$27,000 for 0.10 AAG, and 0.10 LA, and in each FY thereafter.

2. Assumptions for the AGO Licensing and Administrative Law Division's (LAL) Legal Services for the Liquor and Cannabis Board (LCB):

The AGO will bill LCB for legal services based on the enactment of this bill.

The enactment of this bill will likely impact the provision of legal services to the LCB, because it imposes limited requirements on LCB, and all required services, which are likely to be limited to rule-making and minimal final order advice.

In addition to advice on rulemaking, LAL also provides final order advice on administrative litigation. Section 18 of this bill authorizes the director of L&I to request the LCB to suspend, revoke or refuse to renew any cannabis business license for failure to comply with a final order. Although it is possible that L&I would forward some licensing actions, LCB assumes that the number of licensing action requests referred to the LCB would be small, and the number that would seek hearings would be only a portion of those referred. Based on these projections, LAL does not anticipate a significant increase in final order advice as a result of this bill. Should L&I's referrals exceed expectations, it is possible LAL's advice requirements

will exceed those identified here.

LAL total FTE workload for Seattle impact:

FY 2024: \$5,000 for 0.02 AAG and 0.01 LA.

3. The AGO Government Compliance & Enforcement Division (GCE) has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing the LCB. GCE provides litigation support to the LCB in licensing and enforcement actions. This bill would provide a variety of protections to frontline cannabis workers to mitigate the impact of employee turnover when a cannabis business undergoes a change in control. This bill authorizes L&I to conduct investigations of violations under the chapter and to issue findings of fact. According to L&I, they are anticipating only three appeals of their complaints each year. Section 18 of this bill would authorize the director of L&I to request the LCB to suspend, revoke or refuse to renew any cannabis business license for failure to comply with a final order. Although it is possible that L&I would forward a very small number of licensing action requests to the LCB under section 18, the number of requests and the years in which such referrals would occur is unknown. Although indeterminate, we assume that the number of licensing action requests referred to the LCB as a result of this bill would be very small, and the number that would seek hearings would be even smaller. Therefore, GCE does not anticipate any increase in litigation as a result of this bill, and any small increase would be nominal and costs are not included in this request.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services Revolving Account	State	58,000	53,000	111,000	54,000	54,000
Total \$			58,000	53,000	111,000	54,000	54,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.4	0.4	0.2	0.2
A-Salaries and Wages	39,000	36,000	75,000	36,000	36,000
B-Employee Benefits	12,000	11,000	23,000	12,000	12,000
E-Goods and Other Services	7,000	6,000	13,000	6,000	6,000
Total \$	58,000	53,000	111,000	54,000	54,000

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Assistant Attorney General-Seattle	124,635	0.2	0.2	0.2	0.1	0.1
Legal Assistant 3-Seattle	67,044	0.1	0.1	0.1	0.1	0.1
Management Analyst 5	91,524	0.1	0.1	0.1	0.0	0.0
Total FTEs		0.4	0.4	0.4	0.2	0.2

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Licensing & Administrative Law Division (LAL)	5,000		5,000		
Labor & Industries Division (LNI)	53,000	53,000	106,000	54,000	54,000
Total \$	58,000	53,000	111,000	54,000	54,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5662 SB	Title: Cannabis employee job retention	Agency: 110-Office of Administrative Hearings
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Hearings Revolving Account-State 484-1	11,000	11,000	22,000	22,000	22,000
Total \$	11,000	11,000	22,000	22,000	22,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0	0.0	0.0
Account					
Administrative Hearings Revolving Account-State 484-1	11,000	11,000	22,000	22,000	22,000
Total \$	11,000	11,000	22,000	22,000	22,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 01/31/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 02/06/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 02/06/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/06/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

This legislation, named the Cannabis Employee Job Retention Act in Section 23, creates a new chapter in Title 49 RCW.

Section 5 requires outgoing cannabis employers to provide incoming cannabis employers with a preferential hiring list within 15 days and post written notice of the change in control within five business days.

Section 6 then requires incoming cannabis employers to keep the notice posted for 180 calendar days after opening and maintain and hire from the outgoing cannabis employer's preferential hiring list. Section 6 also prescribes (a) the form and duration of offers of employment that the incoming cannabis employer makes to employees, (b) a transition time of 90 days during which the incoming cannabis employer must retain new employees, (c) the terms and conditions of employment the incoming cannabis employer must maintain for employees during the transition period, and (d) restrictions on laying off or discharging employees during the transition period.

Section 7 requires employers to conspicuously post a poster giving notice of the rights provided by this new legislation.

Section 8 sets out recordkeeping requirements that employers must meet. If they do not, the bill prescribes a rebuttable presumption of a violation.

Section 9 prohibits retaliation by employers against employees exercising their rights under this legislation, including filing a complaint or cooperating with the Department of Labor and Industries (L&I) in an investigation. Anyone may file a complaint with L&I; not just employees.

Section 11 sets out L&I's investigatory authority, including the right to initiate an investigation when it has reason to believe that a violation has occurred, will occur, or is likely to occur.

Under Section 13, L&I's resolutions of investigations must include appeal rights.

Section 16 provides for appeal of any citation and notice of assessment, or determination of compliance, issued by L&I, which will then be assigned to the Office of Administrative Hearings for hearing and issuance of an initial order.

Work activities associated with the enactment of this bill will begin on July 1, 2023.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

As a central service agency, the Office of Administrative Hearings (OAH) bills referring agencies for its costs and collects the revenue into the Administrative Hearings Revolving Account. Cash receipts are assumed to equal costs. OAH will bill the Department of Labor & Industries for the costs related to this proposed legislation.

These cash receipts represent the OAH's authority to bill and are not a direct appropriation to OAH. Appropriation authority is necessary in OAH's budget.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

The Department of Labor and Industries (L&I) estimates that the proposed legislation will result in three new appeals being referred to OAH per fiscal year beginning in FY 2024. On average, each appeal is expected to take approximately 20 hours of line Administrative Law Judge (ALJ) time including prehearing conferences, hearings, order writings, etc.

OAH Agency Workforce Assumptions:

- (1) The Governors proposed COLA increases in FY2024 and FY2025, and Collective Bargaining Agreement increases are not included in agency cost projections. Additional funding is required if these proposals are enacted.
- (2) Ratio of 1.0 FTE line ALJ to 0.15 Senior ALJ (SALJ), to 0.6 Legal Assistant 2 (LA2) (Range 40 step L), to 0.25 administrative support Management Analyst 5 (MA5) (Range 64 Step L).
- (3) ALJ salary is based on the ALJ collective bargaining agreement and assumed to be at step L. (Line ALJ-range 70. Senior ALJ-range 74.)
- (4) Benefit rates were analyzed by job class and projected using the latest benefit information available.
- (5) Goods and services, travel and on-going capital outlays were projected based on historical data for each of the job classifications.

Total workload impact beginning in FY 2024: 0.04 ALJ at a cost of \$11,000.

Legal services associated with the enactment of this bill will begin on July 1, 2023.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
484-1	Administrative Hearings Revolving Account	State	11,000	11,000	22,000	22,000	22,000
Total \$			11,000	11,000	22,000	22,000	22,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0	0.0	0.0
A-Salaries and Wages	7,000	7,000	14,000	14,000	14,000
B-Employee Benefits	2,000	2,000	4,000	4,000	4,000
C-Professional Service Contracts					
E-Goods and Other Services	2,000	2,000	4,000	4,000	4,000
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	11,000	11,000	22,000	22,000	22,000

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Law Judge	106,152	0.0	0.0	0.0	0.0	0.0
Total FTEs		0.0	0.0	0.0	0.0	0.0

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)	11,000	11,000	22,000	22,000	22,000
Total \$	11,000	11,000	22,000	22,000	22,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Department of Revenue Fiscal Note

Bill Number: 5662 SB	Title: Cannabis employee job retention	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 60-786-7404	Date: 01/31/2023
Agency Preparation: Van Huynh	Phone: 60-534-1512	Date: 02/24/2023
Agency Approval: Marianne McIntosh	Phone: 60-534-1505	Date: 02/24/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/25/2023

Request # 5662-1-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

CURRENT LAW:

There is no requirement for cannabis employers to provide and utilize preferential hiring lists when cannabis businesses undergo a change in control.

PROPOSAL:

This bill creates the Cannabis Employee Job Retention Act to be administered by the Department of Labor and Industries (L&I).

When a cannabis business undergoes a change in control, the outgoing cannabis employer must provide a preferential hiring list to the incoming cannabis employer within 15 calendar days after the execution of the transfer document. The outgoing employer must post written notice of the change in control in a conspicuous place to employees and employment applicants within five business days after the execution of the transfer document. The incoming employer must keep the required notice posted during any closure of the cannabis business and for 180 days after the cannabis business is open to the public under its control.

The incoming employer must maintain and hire from the preferential hiring list for a period from the execution of the transfer document and continuing for 180 days after the cannabis business is open to the public. The hiring must be by seniority within each job classification to the extent that comparable job classifications exist.

An employment offer must be in writing and remain open for at least 10 business days. If the employee accepts the offer, the incoming employer must retain that employee for at least 90 days following the employment commencement date. During the 90-day period, the incoming employer:

- Must employ the employee under the same terms and conditions of the outgoing cannabis employer, including wages and benefits.
- May not lay off employees unless the incoming employer determines that fewer cannabis employees are required than by the outgoing cannabis employer and must retain employees by seniority within each job classification.
- May not discharge an employee unless there is just cause for the discharge.

At the end of the 90-day period, the employer must provide a written performance evaluation to each employee. If the performance is satisfactory, the employer must consider offering the employee continued employment under the same terms.

L&I must create a poster of these rights in English, Spanish, and other languages, as it determines is appropriate. Employers must display the poster at every workplace or jobsite in English and in the primary language of the employees at the particular workplace.

The bill imposes penalties for employers who fail to comply with the requirements and empowers L&I to enter settlements with cannabis employers.

The bill authorizes the Department of Revenue (department) to deny, refuse to renew, or revoke cannabis business licenses pursuant to requests from L&I.

EFFECTIVE DATE:

The bill takes effect 90 days after final adjournment of the session in which it is enacted.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

This legislation results in no revenue impact to taxes administered by the department.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:

- The department expects a small but indeterminate number of license action requests.
- The department will have minimal cost of approximately \$2,000 for 40 hours of work by an excise tax examiner to obtain an agency sharing agreement and \$250 for five hours of work by an operations manager and customer service specialist for each license action request. The department will absorb these costs within current funding.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

III. B - Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Revised

Bill Number: 5662 SB	Title: Cannabis employee job retention	Agency: 195-Liquor and Cannabis Board
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
Account					
Dedicated Cannabis Account-State 315-1	5,000	0	5,000	0	0
Total \$	5,000	0	5,000	0	0

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 01/31/2023
Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 02/07/2023
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 02/07/2023
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 02/07/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 1: INTENT

(2) The liquor and cannabis board sets the number of licenses and manages the process when a retail establishment changes their licensure status through a change in ownership or a change in business location. Of the 463 active retail licenses, 143 (31 percent) have undergone some kind of change in ownership, many of them more than once. This high turnover in ownership fosters job insecurity in what is already a challenging industry.

(3) The legislature finds that, given the uniqueness of an industry where the number of retail licenses are fixed by statute, where jobs are limited to those establishments with a state license, and where the ownership of those licenses has a high degree of turnover, it is necessary to ensure job retention in a continually changing industry.

Section 2: DEFINITIONS

(6) "Department" means the department of labor and industries.

(7) "Director" means the director of the department of labor and industries.

(17) "Respondent" means an employer or any person who is alleged to have committed a violation of this chapter.

Section 4: EMPLOYERS COVERED

(1) Except as provided in (3) An employer holding a cannabis retail license issued by the liquor and cannabis board under the social equity program established in RCW 69.50.335 is not covered under this chapter until January 1, 2030, if the employer did not previously hold a cannabis retail license issued under chapter 69.50 RCW. subsection (3) of this section, employers covered under this chapter are limited to those who own, control, or operate a cannabis business in the state, including but not limited to integrated enterprises.

(3) An employer holding a cannabis retail license issued by the liquor and cannabis board under the social equity program established in RCW 69.50.335 is not covered under this chapter until January 1, 2030, if the employer did not previously hold a cannabis retail license issued under chapter 69.50 RCW.

Section 18: FAILURE TO COMPLY WITH AGREEMENT/ORDER

If a respondent fails to comply within 30 days of service of any settlement agreement with the department regarding any violations of this chapter, or with any final order issued by the director or the administrative law judge for which all appeal rights have been exhausted regarding any violations of this chapter, the department may pursue, but is not limited to, the following measures to secure compliance:

(2) The director may request that the liquor and cannabis board or department of revenue deny, suspend, refuse to renew, or revoke any cannabis business license held or requested by the employer or person until such time as the employer complies with the remedy as defined in the settlement agreement or final order. The liquor and cannabis board and the department of revenue are authorized to deny, refuse to renew, or revoke any cannabis business license in accordance with this subsection.

Section 19: PROHIBITED ACTIONS FOR RESPONDENT OF AGREEMENT/ORDER

(1) A respondent that is the subject of a settlement agreement or final order issued under this chapter may not quit business, sell out, exchange, convey, or otherwise dispose of the respondent's business or stock of goods without first notifying the department and without first notifying the respondent's successor of the amounts owed under the settlement agreement or final order at least three business days prior to such transaction.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Labor & Industries ("L&I") is estimating about 46 complaints for this bill which will lead to about 3 appeals based on their analysis. The appeals would involve the Attorney General's Office (AGO) and Office of Administrative Hearings (OAH).

L&I does not have a number for potential licensees that would get referred to the Board for denial, suspension, refusal to renew, or revocation under section 18 and L&I would consider that piece indeterminate. Based on the minimal number of complaints estimated by L&I, the LCB estimates any referrals to the Board would be very minimal and have no fiscal impact to the agency.

The AGO has indicated that it will bill the Board for legal services based on the enactment of this bill likely impacting the provision of legal services to the Board. Because it imposes limited requirements on the Board, and all required services, which are likely to be limited to rule-making and minimal final order advice.

\$5,000 in FY24.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
315-1	Dedicated Cannabis Account	State	5,000	0	5,000	0	0
Total \$			5,000	0	5,000	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services	5,000		5,000		
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	5,000	0	5,000	0	0

III. C - Operating FTE Detail: FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.

NONE

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
BOARD DIVISION (010)	5,000		5,000		
Total \$	5,000		5,000		

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5662 SB	Title: Cannabis employee job retention	Agency: 235-Department of Labor and Industries
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.2	3.2	3.2	2.1	2.1
Account					
Accident Account-State 608-1	754,000	447,000	1,201,000	628,000	628,000
Medical Aid Account-State 609-1	134,000	80,000	214,000	112,000	112,000
Total \$	888,000	527,000	1,415,000	740,000	740,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 01/31/2023
Agency Preparation: Donald Jenson Jr	Phone: 360-902-6981	Date: 02/07/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/07/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/10/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

See attached.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

See attached.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

See attached.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
608-1	Accident Account	State	754,000	447,000	1,201,000	628,000	628,000
609-1	Medical Aid Account	State	134,000	80,000	214,000	112,000	112,000
Total \$			888,000	527,000	1,415,000	740,000	740,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.2	3.2	3.2	2.1	2.1
A-Salaries and Wages	237,000	237,000	474,000	296,000	296,000
B-Employee Benefits	88,000	88,000	176,000	114,000	114,000
C-Professional Service Contracts	163,000		163,000		
E-Goods and Other Services	373,000	195,000	568,000	318,000	318,000
G-Travel	7,000	7,000	14,000	12,000	12,000
J-Capital Outlays	20,000		20,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	888,000	527,000	1,415,000	740,000	740,000

III. C - Operating FTE Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Regulations Analyst 4	85,020	1.0	1.0	1.0		
Fiscal Analyst 5	71,520	0.2	0.2	0.2	0.1	0.1
Industrial Relations Agent 3	69,756	2.0	2.0	2.0	2.0	2.0
Total FTEs		3.2	3.2	3.2	2.1	2.1

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

See attached.

Part II: Explanation

This bill relates to cannabis employee job retention, adding a section to RCW 49.

II. A – Brief Description of What the Measure Does that Has Fiscal Impact

Section 5 requires an outgoing cannabis employer to provide a preferential hiring list to the incoming cannabis employer within 15 days. It also requiring the outgoing cannabis employer to post a written notice regarding the change in control of the business within five business days of the signing of the transfer document. The notice must be in a conspicuous place viewable to employees and applicants for employment. It also requires the notice to include the name and contact information of the outgoing employer, the name and contact information of the incoming employer, the effective date of the change of control, and the name and any trade names of the incoming employer.

Section 6 provides additional requirements of the incoming employer regarding the preferential hiring list, offers of employment, transitional employment periods, and layoffs. The requirements under Section 5 and 6 of the act apply to reactivating cannabis employers.

Section 7 requires the Department of Labor and Industries (L&I) to create and make available a poster in several languages that notifies employees of the rights provided by this chapter. It requires employers to display the poster in conspicuous places at every worksite.

Section 8 requires each employer to retain records that document conformance with the chapter including a written copy of the preferential hiring list, written verification of offers of employment to each employee, written records of performance evaluations, and pursuant to L&I rules, other records that are necessary. It also requires an employer to retain the records for a period of three years. It also states that if an employer fails to retain the records required, a presumption is created that the employer violated the chapter for the period for which the records were not retained. The presumption is rebuttable by clear and convincing evidence.

Section 9 prohibits an employer or other person from interfering with, restraining, or denying or attempting to deny the exercise of the rights under the section. It also states that an employer or any other person may not take an adverse action against a person because the person has exercised “in good faith” the rights under the section, and provides additional conditions.

Section 10 authorizes L&I to establish rules to administer this chapter.

Section 11 authorizes L&I to investigate alleged violations of this chapter, upon receiving a complaint or report by an employee or any other person of an alleged violation of this chapter, and provides additional conditions.

Section 12 states the failure of any respondent to comply with any requirement imposed on the respondent under this chapter is a violation of this chapter.

Section 13 states that except when there is an agreed upon settlement, L&I shall issue a written determination with findings of fact resulting from the investigation and a statement of whether a violation of this chapter has or has not occurred based on a preponderance of the evidence before the director. If L&I determines that a violation of this chapter has occurred, they shall issue a citation and notice of assessment.

Sections 14 & 15 provide procedures and conditions on unpaid compensation, liquidated damages, and penalties. This includes a list of various penalty amounts for different violations. It also states L&I shall deposit fines and civil penalties paid to L&I in the supplemental pension fund.

II. B – Cash Receipt Impact

Receivables – Non-appropriated.

The bill requires L&I to deposit fines and penalties to the supplemental pension fund, which is a non-appropriated fund. The penalty amounts can vary, therefore L&I cannot estimate the amounts nor frequency of the penalties. The cash receipt impact is indeterminate.

Receivables – Operating

None. The bill requires L&I to deposit fines and penalties to the supplemental pension fund, which is a non-appropriated fund.

II. C – Expenditures

Appropriated – Operating Costs

This bill increases expenditures to the Accident Fund, fund 608 and the Medical Aid Fund, fund 609. The following assumptions were used to estimate the resources requested to implement this bill.

Staffing

2.0 FTE, Industrial Relations Agent 3 (IRA3), permanent, beginning July 1, 2023. Duties include investigating complaints for specific workers for complaints related to the payment, non-wage, reporting, retaliation protections, conduct outreach, and complex case resolution. This is based on the following assumptions:

- According to the Washington State Institute for Public Policy, June 2017 report, there were 10,894 employees of licensed cannabis businesses.
- Assume 31 percent of businesses changing ownership.
- Therefore, expect 3,377 affected workers. ($10,894 \times .31 = 3,377$)
- Workers may experience three different types of alleged violations:
 - Wage Payment Act (WPA) complaints:
 - 3,377 workers
 - 0.002 complaint rate
 - 6.8 WPA complaints ($3,377 \times .002 = 6.8$)

- Since the bill allows for individuals other than employees to bring complaints forward, expect that number of complaints to double.
 - Therefore, 13.6 WPA complaints are expected. ($6.8 \times 2 = 13.6$)
 - Administrative Violations (AV) – non-wage violations such as the hiring list, record retention, failure to meet written notice of rights requirement, etc.
 - 3,377 workers
 - 0.004 complaint rate
 - 14 WPA complaints ($3,377 \times .004 = 13.5$)
 - Since the bill allows for individuals other than employees to bring complaints forward, expect that number of complaints to double.
 - Therefore, 28 AV complaints are expected. ($14 \times 2 = 28$)
 - Retaliation
 - 3,377 workers
 - 0.00069 complaint rate
 - 2.3 WPA complaints ($3,377 \times .00069 = 2.3$)
 - Since the bill allows for individuals other than employees to bring complaints forward, expect that number of complaints to double.
 - Therefore, 4.6 retaliation complaints are expected. ($2.3 \times 2 = 4.6$)
- 46 Total number of complaints are expected per year ($13.6 + 28 + 4.6 = 46.2$)
- Because the complaint can be lodged by an employee or any other person, these cases are characterized as company-wide investigations. The IRA3 caseload of company-wide investigations is 25 per year.
- Therefore, 2 FTEs are needed. ($46 \text{ complaints} / 25 \text{ cases} = 1.84 \text{ FTE}$)

1.0 FTE, Administrative Regulations Analyst 4, temporary, from July 1, 2023 through June 30, 2025. Duties include stakeholdering, rulemaking, and policy activities. The rulemaking activities to implement this bill are complex, and will be completed during fiscal year 2024. Duties for the second year will involve administrative policy development.

Information Technology

The estimate is based on utilizing a new complaint in a Software as a Service (Saas) or Commercial off the Shelf (COTS) solution. Additionally, contract developers will modify and

enhance multiple internal systems. Quality Assurance (QA) and software costs are also required for this effort.

A total of \$513,176 is needed in the 2023-25 biennium for all information technology changes.

This includes:

- Contractor costs – \$121,676 is needed for 980 contractor hours
- QA – \$41,500
- Software – \$250,000 for fiscal year 2024, then \$100,000 each following fiscal year.

The expenditure calculations in this fiscal note include changes to the hourly rates for contract technology based on an annual analysis completed by L&I. These changes include rates based on expert skill level and an inflationary factor in all categories. All expenditures in this section are for the 2023-25 biennium.

Printing & Mailing

\$1,856 is needed for printing, mailing and translating the required posters.

Rule making

\$10,000 is needed for four rule making hearings to occur during fiscal year 2024. The average cost of one rule making hearing is \$2,500. (4 hearings x \$2,500 each = \$10,000)

Attorney General – Legal Services

\$111,000 is needed for legal services for the 23-25 biennium. \$58,000 is needed for fiscal year 2024, and \$53,000 is needed for 2025 to assist with rulemaking and handle appeals. \$27,000 is needed annually beginning in fiscal year 2026. The following assumptions were used to calculate the estimates:

- 46 investigations per year are expected. (see above)
- 14 percent of complaints result in an appealable order.
- 6 orders are expected. (46 x .14 = 6.44)
- Since the complaints will reflect a companywide approach involving multiple workers, a 50 percent appeal rate is expected.
- 3 appeals are expected beginning fiscal year 2024. (6 orders x .50 = 3 appeals)

Administrative Hearings

\$11,000 is needed per year for three administrative hearings, beginning in fiscal year 2024.

Indirect Costs

The amount included in this fiscal note for indirect is:

Fund Name		FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
608	Accident	16,000	16,000	11,000	11,000	11,000	11,000
609	Medical Aid	3,000	3,000	2,000	2,000	2,000	2,000
	Total:	\$19,000	\$19,000	\$13,000	\$13,000	\$13,000	\$13,000

The department assesses an indirect rate to cover agency-wide administrative costs. Labor and Industries’ indirect rate is applied on salaries, benefits, and standard costs. For fiscal note purposes, the total indirect amount is converted into salary and benefits for partial or full indirect FTEs. Salary and benefits costs are based on a Fiscal Analyst 5 (Range 59, Step G).

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

New rules need to be created within WAC 296 to implement this bill.